

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SWINTER GROUP, INC.,)
Plaintiff,)
v.)
NATIONWIDE TRUCKERS')
PERMIT SERVICE, INC., d/b/a)
NATIONWIDE TRUCKERS)
PERMIT SERVICE, INC., et al.,)
Defendants.)

No. 4:17-cv-02310-SPM

**PLAINTIFF'S MOTION TO STRIKE SOME OF DEFENDANTS'
AFFIRMATIVE DEFENSES OR, IN THE ALTERNATIVE, FOR MORE
DEFINITE STATEMENT**

Plaintiff Swinter Group, Inc., moves under Rule 12(e) and (f) of the Federal Rules of Civil Procedure four of Defendants' fifteen affirmative defenses or for a more definite statement.

1. Plaintiff filed a class action against Defendants under the Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227, and the regulations promulgated thereunder (TCPA), concerning Defendant's junk faxes.

2. Defendants answered and attempted to assert a litany of affirmative defenses (Doc. 13 at 5-11), four of which are the target of this motion and should be stricken or made more definite.

3. In recent TCPA junk-fax cases in this district, judges have stricken similar defenses to those challenged here.

4. Rule 12(f) provides that “[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”

5. Plaintiff is prejudiced by the inclusion of such defenses, because of the increased legal work that would need to be done with respect to discovering the facts and legal theories behind such defenses, addressing and surmounting each of the defenses in a summary judgment motion, and in preparing jury instructions.

6. A supporting memorandum is filed herewith.

WHEREFORE, Plaintiff Swinter Group, Inc., requests that the Court strike Defendants' Affirmative Defense Nos. 1, 2, 3, and 14 or, as appropriate, order Defendants to make the Affirmative Defense No. 3 more definite, and grant Plaintiff any additional relief deemed just and proper.

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CERTIFICATE OF SERVICE

I certify that on October 24, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all registered counsel of record.

/s/ Ronald J. Eisenberg